

AFFIDAVIT OF SERVICE

Index #: **07 Civ. 5469 (WHP)**

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Date Purchased: _____

Date Filed: _____

Court Date: _____

COUNTY

ATTORNEY(S): Kathleen A. Zebrowski AUSA : U.S. Attorney's Office - SDNY PH: 212-637-2710

ADDRESS: 86 Chambers Street New York N.Y. 10007 File No.: _____**JAMES RUSSO,**
vs.
MP222 LLC, et al.,

Plaintiff(s)/Petitioner(s)

Defendant(s)/Respondent(s)

STATE OF NEW YORK, COUNTY OF NASSAU SS.:

ELIAM SHATARA _____, being duly sworn deposes and says: Deponent is not a party herein, is over 18 yearsof age and resides in New York State. On September 11, 2007 at 6:10 PMat 56 CORNWALL LANE SANDS POINT, NEW YORK 11050, deponent served the within**Answer, Counterclaim, Crossclaim and Third-Party Complaint**with Index Number 07 Civ. 5469 (WHP), and Date Purchased _____, endorsed thereon,on: **MP222 LLC, c/o MICHAEL PORGES**, **Defendant** therein named.

#1 INDIVIDUAL By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

#2 CORPORATION By delivering to and leaving with _____ and that deponent knew the person so served to be Managing Agent of the corporation, and authorized to accept service on behalf of the corporation.

Service was made in the following manner after your deponent was unable, with due diligence, to serve the witness/defendant in person, and an attempt to locate the defendant's place of employment.

#3 SUITABLE AGE PERSON By delivering a true copy of each to _____ a person of suitable age and discretion. Said premises is recipient's [] actual place of business [] dwelling house (usual place of abode) within the state.

#4 AFFIXING TO DOOR By affixing a true copy of each to the door of said premises, which is recipient's: [] actual place of business [X] dwelling house (place of abode) within the state.

#5 MAIL COPY On September 12, 2007, deponent completed service under the last two sections by depositing a copy of the Answer, Counterclaim, Crossclaim and Third-Party Complaint to the above address in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York. Certified Mail No. _____

Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called

thereat on the 9 day of August, 2007 at 3:17 PM
on the 11 day of August, 2007 at 10:53 AM
on the 14 day of August, 2007 at 6:03 PM
on the 18 day of August, 2007 at 1:14 PM

#6 NON-SRVC After due search, careful inquiry and diligent attempts, I have been unable to effect process upon the person/entity being served because of the following: [] Unknown at Address [] Evading [] Moved left no forwarding [] Address does not exist [] Other: _____

#7 DESCRIPTION A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:
Sex _____ Color of skin _____ Color of hair _____ Age _____ Height _____
(use with #1, 2 or 3) Weight _____ Other Features: _____

#8 WIT FEES the authorized witness fee and / or travelling expenses were paid (tendered) to the recipient.

#9 MILITARY SRVC Deponent asked person spoken to whether the defendant was presently in military service of the United States Government or of the State of New York and was informed that defendant was not.

#10 OTHER **ALSO ATTEMPTED TO SERVE 9/6/07 @ 6:32 PM.**
SERVED AS LAST KNOWN ADDRESS PER ATTORNEY.Sworn to before me on this 12 day of September, 2007

DARBARA A. SHURGIN

NOTARY PUBLIC, State of New York
No. 30-5004737, Qualified in Nassau County
Commission Expires November 23, 2010

ELIAM SHATARA

Server's Lic # 1059412

Invoice/Work Order # 0737856